

11/16/2020

ORDINANCE NO. _____

AN ORDINANCE TO AMEND SECTIONS 122-30, 122-31, 122-61, 122-65, 122-199, 122-266, 122-267, 122-272, 122-302 AND 122-304 OF CHAPTER 122, LAND DIVISION, OF THE CODE OF ORDINANCES OF THE CITY OF ROCHESTER HILLS, OAKLAND COUNTY, MICHIGAN, TO UPDATE STANDARDS, AND TO REPEAL CONFLICTING OR INCONSISTENT ORDINANCES.

THE CITY OF ROCHESTER HILLS ORDAINS:

Section 1. Section 122-30 of Chapter 122 of the Code of Ordinances of the City of Rochester Hills shall be amended as follows:

Sec. 122-30. – Approval procedure.

- (a) *Generally.* No building or occupancy permit shall be issued by the building department for the use of any parcel of land which has resulted from a division or partition, without the approvals required by this article, if the division or partition is accomplished after the effective date of the ordinance from which this article derives.
- (b) *Review.* The assessing department shall refer the application to the various city departments for review and approval.
- (c) *Approval.* If there is compliance with this article and the other applicable provisions, standards, rules and regulations of this Code, the assessing department may approve the division or partition and cause the instruments presented, along with a stamp of approval, to be recorded with the county register of deeds.
- (ed) *Referral to city council*~~*Appeal and review.*~~ If it is determined by ~~the building and/or assessing~~one or more of the reviewing departments the division or partition of the resulting parcels would not be in accordance with the findings for approval set forth in subsection (c)(3) of this section, the ~~building and/or assessing~~reviewing departments shall set forth, in writing, the findings reached that resulted in disapproval of the application. ~~If The application may be rejected or referred~~If the application is denied, the applicant may appeal the decision to the planning commission for recommendation to the city council for review and final decision. If any of the resulting parcels do not abut a public road or a private road constructed and approved in accordance with this article, the matter must be referred to the city council for approval.
- (1) *Final decision.* The city shall have the final decision as to any division or partition which is referred to it.

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- (2) *Planning commission review.* All matters referred to the city council for final decision under this article shall first be referred to the planning commission for review and recommendation before final decision. The Planning Commission shall refer to the standards outlined in subsection (3) below in their review and recommendation.
- a. Public hearing. The planning commission shall hold a public hearing before making its recommendation to the city council.
 - b. Notice of hearing. Notice of the public hearing shall be published in the ~~Clarion Eeentricity's official newspaper~~ one time only, at least five days before the hearing and notice shall be sent by regular mail at least ten days before the hearing to all property owners owning property within 300 feet of any lands involved in the application for a division or partition.
- (3) *Findings for approval.* The city council shall find in each case, before giving its approval:
- a. The division or partition will result in lots or parcels of land having a size and shape consistent and harmonious with that of other parcels in the immediate area.
 - b. There has been compliance with the requirements of this article and the other applicable provisions, standards, rules and regulations of this Code.
 - c. The provisions for any private road shall be in compliance with section 122-31 and shall not be injurious to the public health, safety and welfare and shall be generally compatible with the surrounding land use and development.
 - d. The division or partition and the ability to develop buildable sites on resultant parcels will not unreasonably disturb wetlands, floodplains, or other natural features of the land or that any disturbance to these areas is permitted pursuant to a wetland and/or floodplain permit issued by the city.
 - e. The nature and location of vehicular ingress and egress will not unreasonably interfere with or hinder appropriate development and use of adjacent land or unreasonably impair the value thereof or cause a nuisance thereto.
 - f. The location, size, and layout of resultant parcels will not be unreasonably detrimental to nearby residences because of noise, fumes, lights, or other nuisances nor will it interfere with any adequate supply of light and air or otherwise endanger public health, welfare, and safety.
 - g. Adequate access to roads and utilities is provided for each resultant parcel which is otherwise a buildable site.

- (d) *Approval.* If there is compliance with this article and the other applicable provisions, standards, rules and regulations of this Code, the assessing department may approve the division or partition and cause the instruments presented, along with a stamp of approval, to be recorded with the county register of deeds.
- (e) *Appeal and review.* Any applicant who is aggrieved by any denial or other action may appeal to the city council. The council shall thereafter review the decision or action of any department and may reverse, modify, or affirm such decision in whole or in part.
- (f) *Applicability of other sections.* Approval of a land division under this article shall not in any way constitute a waiver of any other section of this Code regarding the requirements for the development of land, nor shall it ensure that the parcels of land created by the approved division are buildable under this Code.

Section 2. Section 122-31 of Chapter 122 of the Code of Ordinances of the City of Rochester Hills shall be amended as follows:

Sec. 122-31. – Private road requirements.

- (a) Any lot or parcel of land resulting from a division or partition of lands pursuant to this article which does not abut a public road shall abut a private road which shall comply with the following requirements:
 - (1) *Minimum specifications.* Minimum specifications shall be as follows:
 - a. *Single-family residential development.* All private roads in a single-family residential zoning district shall be a minimum of 60 feet in width and shall be designed and constructed by the applicant in accordance with at least the minimum requirements ~~for class C roads as they are established by the county road commission for public roads~~ as amended and supplemented by the adopted standards of the city.
 - b. *Multiple-family, commercial development.* All private roads in a multiple-family, office, or commercial development shall be a minimum of 60 feet in width and shall be designed and constructed in accordance with at least the minimum requirements for roads in the type of development under construction, ~~as the requirements are established by the county road commission for public roads~~ as amended and supplemented by the adopted standards of the city.
 - c. *Industrial development.* All private roads in an industrial development shall be a minimum of 70 feet in width and shall be designed and constructed in accordance with at least the minimum requirements for industrial subdivision roads ~~as they are established by the county road commission for public roads~~ as amended and supplemented by the adopted standards of the city.

- d. *Multiple developments.* Private roads providing access to more than one type of development shall be designed and constructed in accordance with the minimum requirements of the type of development requiring the higher standard.
- (2) *Construction prior to building.* The road shall be constructed and established before the issuance of a building permit for any structure which may be constructed on any lot, outlot, or parcel which will result from the division or partition and for which ingress and egress will be via the road.
- (3) *Signs.* A new private road shall be named, which name shall be approved by the ~~city council~~street naming committee, and an appropriate sign shall indicate the name.
- (4) *Utility easements.* For any parcel of land not fronting on an established public road, an easement for construction and operation of public utilities including natural gas, electric and telephone service shall be provided. No division of land shall take place or building permit approved by the city until written evidence of the availability of adequate utility easements has been submitted and approved.
- (5) *Owners'/users' interests.*
- a. *Part ownership.* Whenever possible, all property owners who will be using the private road for ingress and egress purposes shall retain or have a part ownership interest in the road, as opposed to one party retaining the title and the others only having easement rights.
- b. *Maintenance agreement.* All persons owning lands which use or may use the private road for ingress and egress shall enter into a maintenance agreement, which shall be presented to the city in a form suitable for recording with the county register of deeds. The maintenance agreement shall include at least the following:
1. *Financing improvement and/or maintenance.* A method of initiating and financing whatever improvements and/or maintenance which may be needed from time to time in order to keep the road in a reasonably good and usable condition.
 2. *Method of apportioning costs.* A workable method of apportioning the cost of maintenance and improvements.
 3. *Public easements.* Easements to the public for purposes of emergency and other public vehicles for whatever public services are necessary.
 4. *Noninterference provision.* A provision that the owners of any and all of the property using the road shall refrain from prohibiting, restricting, limiting or in any manner interfering with normal

ingress and egress and use by any of the other owners. Normal ingress and egress and use shall include use by family, guests, invitees, tradesmen, and others bound to or returning from any of the properties having a right to use the road.

- (b) *Waiver by city council.* The city council may partially waive the requirements of this section to the extent it finds it necessary based upon a hardship or other similar circumstance, but any deviation shall only be after the council makes findings consistent with the findings as required by subsection 122-30(c).

Section 3. Section 122-61 of Chapter 122 of the Code of Ordinances of the City of Rochester Hills shall be amended as follows:

Sec. 122-61. – Definitions.

All terms as defined in the land division act, Public Act No. 288 of 1967 (MCL 560.101 et seq., MSA 26.430(101) et seq.) shall control in this article unless specifically defined in this section. The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Block means property abutting one side of a street and lying between the two nearest intersecting streets; between the nearest such street and railroad right-of-way, unsubdivided acreage, river or live stream; or between any of such and any other barrier to the continuity of development.

Buildable means having sufficient land area to meet minimum structure setback, floor area, parking, sewage disposal and accessory use requirements, outside of wetlands, and required buffer, and floodplains, unless a permit is obtained allowing construction of the structure in the wetland, required buffer, or floodplain.

Building line or setback line means as defined in the city zoning ordinance in chapter 138, as amended.

City planner and planner mean the staff planner or community planner employed by the city.

City staff means the city planning and zoning coordinator, the planner, the building department, the city engineer, the department of public services, and such other departments and consultants necessarily involved in a particular review and approval.

Commission means the city planning commission.

Easement means a grant by the owner of land to the public, a corporation or person, for specific uses and purposes, to be designated as a "public" or "private" easement depending on the nature of use.

Environmental effects means the impact of the physical development of the land with its proposed characteristics on the components of environmental quality (health, density, space and beauty) as they relate to the site, the adjacent land, the neighborhood and the community.

Floodplain means as defined in article III of chapter 114 of this Code.

Improvements means grading, street surfacing, curb and gutter, sidewalks, nonmotorized vehicle-pedestrian paths, crosswalks, water mains and lines, sanitary sewers, culverts, bridges, utilities, drainage, and other additions to the natural state of land which increases its value, utility or habitability.

Land division act means the land division act, Public Act No. 288 of 1967 (MCL 560.101 et seq., MSA 26.430(101) et seq.).

Master plan means the general land use plan for the city, including graphic and written proposals indicating the locations recommended for the streets, parks, schools, public buildings, zoning districts, and all physical developments of the city, and includes any unit or part of such plan and any amendments to such plan or parts thereof accepted and/or adopted by the planning commission.

Master right-of-way plan means that part of the traffic study and comprehensive transportation plan which sets forth the location, alignment, and dimensions of existing and proposed streets and thoroughfares.

Parcel means a continuous area or acreage of land which can be described as provided for in the land division act.

Performance guarantee means any security, including performance bonds, escrow agreements and other similar collateral or surety agreements, which may be accepted by the city council as a guarantee that required subdivision improvements will be made by the developer.

Plat means a map or chart of a subdivision of land and is further defined as follows:

- (1) Preliminary plat means a map showing the salient features of a proposed subdivision submitted to an approving authority for purposes of preliminary consideration prepared in conformance with the land division act and this article.
- (2) Final plat means a map of all or part of a subdivision providing conformance to the preliminary plat of the subdivision prepared in conformance with the requirements of the land division act and this article, and suitable for recording by the county register of deeds and the state department of treasury.

Proprietor means a natural person, firm, association, partnership, corporation, or combination of any of them which may hold any ownership interest in land, whether recorded or not.

Sidewalk means a public pathway constructed of concrete for public use, five feet in width, and located on public streets.

Street means any avenue, boulevard, road, lane, parkway, viaduct or other way which is an existing state, county, or municipal roadway or any road or way shown in a plat approved pursuant to law. A street, as defined, includes the land between the right-of-way lines, whether improved or unimproved, and may comprise pavement, shoulders, gutters, sidewalks, parking areas and lawns. The term is further defined as follows:

- (1) Major street (thoroughfare) means an arterial street of great continuity which is intended to serve as a large volume trafficway for both the immediate municipal area and region beyond and may be designated in the master right-of-way plan as a major thoroughfare, parkway, expressway, or equivalent term to identify those streets comprising the basic structure of the street plan.
- (2) Collector street means a street intended to serve as a major means of access from local streets to major thoroughfares, including principal entrance streets to large scale developments.
- (3) Local street means a street of limited continuity used primarily for access to abutting residential properties.
- (4) Marginal access street means a local street parallel to and adjacent to a major thoroughfare which provides access to abutting properties and protection from through traffic.
- (5) Boulevard street means a street developed in two one-way pavements separated by a median.
- (6) Turnaround means a short boulevard street permanently terminated by a vehicular turnaround.
- (7) Cul-de-sac street means a short minor street having one end permanently terminated by a vehicular turnaround.

Tract means two or more parcels that share a common property line and are under the same ownership.

Wetland means as defined in article IV of chapter 126 of this Code.

Zoning ordinance means the city zoning ordinance, as printed in chapter 138 of this Code, as amended.

Section 4. Section 122-65 of Chapter 122 of the Code of Ordinances of the City of Rochester Hills shall be amended as follows:

Sec. 122-65. – Construction limitations.

- (a) Mud, dirt and debris on streets. For the purposes of this article, mud, dirt and debris on streets shall be treated as follows:

- (1) *Requirement established.* During construction of a subdivision, including the installation of utilities and construction of buildings, all improved roads and streets on and off of the property being subdivided shall be kept free from mud, dirt, debris, etc., which may result from the development of the property.
- (2) *Immediate cleanup.* Any person depositing or allowing the depositing of any mud, dirt, debris, etc., on an improved road or street shall clean the road or street before the end of any working day.
- (3) *Responsibility.* The proprietor of a subdivision shall have responsibility for this subsection in addition to any other person involved.
- (4) *Dangerous condition.* If notified during a working day by the city of a dangerous condition which requires cleaning, the matter shall be taken care of within two hours.
- (5) *Use of cash deposits.* Cash deposits shall be used as follows:
 - a. *Single builder.* If it appears the mud, dirt, debris, etc., on an improved road or street has been caused by the builder of a building or in connection with the building of a building, the builder shall be responsible, and the city may use the cash deposit filed in order to obtain the building permit to clean the road or street.
 - b. *Multiple builders.* If the mud, dirt, debris, etc., appears to be caused by more than one builder or in connection with more than one building site, the cost of cleaning shall be prorated and charged against the cash deposits of the builders appearing to be responsible.
- (b) *Debris, etc., on site.* Neither the proprietor of a subdivision nor any other person shall allow debris, construction materials, etc., to accumulate during construction in a manner which becomes unsightly or which might affect the health, safety and welfare of residents of homes in the vicinity.
- (c) *Signs.*
 - (1) *Temporary street.* After paving of streets and during construction of a subdivision, the proprietor shall install and maintain temporary street signs until the county road commission installs permanent signs. The signs shall be installed according to standards and specifications adopted by resolution of the city council.
 - (2) *Lot.* At the time of obtaining a building permit, the proprietor shall place and maintain a sign on the proposed lot indicating the lot number and shall provide the building department a map showing the location of all lots.
- (d) *Mayor's authority.* Upon it appearing to the mayor there has been a failure to comply with any of the requirements of this section, ~~h~~the mayor may institute city review

procedures and city inspections related to the subject property, until there has been compliance. This authority shall not limit the city's authority to issue citations for the violation of this section.

Section 5. Section 122-199 of Chapter 122 of the Code of Ordinances of the City of Rochester Hills shall be amended as follows:

Sec. 122-199. – Final plat drawings.

- (a) *As-built ~~Mylar~~ drawings.* One complete set of as-built ~~Mylar~~ drawings by PDF submission and two sets of ~~blue line~~ drawings shall be provided by the proprietor to the city engineer at the time of final acceptance of the public improvements in the subdivision.
- (b) *Reduction.* One copy of the final plat reduced to a scale of one inch equals 200 feet shall be submitted with the final plat ~~Mylar~~ to the city clerk, with subdivision restrictions, if any.

Section 6. Section 122-266 of Chapter 122 of the Code of Ordinances of the City of Rochester Hills shall be amended as follows:

Sec. 122-266. – Scope.

The subdivision design standards set forth in this division are development guides for the assistance of the developer. All final construction plans shall be reviewed and approved by the city engineer and department of public services.

Section 7. Section 122-267 of Chapter 122 of the Code of Ordinances of the City of Rochester Hills shall be amended as follows:

Sec. 122-267. – Streets.

- (a) *Conformance to requirements.* Subdivision streets shall conform to all minimum requirements, general specifications, typical cross sections and other requirements of ~~the road commission for the county~~ and this article and any other requirements of the city engineer.
- (b) *Location and arrangement.*
 - (1) The proposed subdivision shall conform to the various elements of the city master plan and shall be considered in relation to existing and planned major thoroughfares and collector streets, and such streets shall be platted in the location and the width indicated on such plan.
 - (2) The street layout shall provide for continuation of streets in the adjoining subdivisions and of the proper projections of streets when adjoining property is not subdivided.

- (3) The street layout shall include local streets so laid out that their use by through traffic will be discouraged.
- (4) If a proposed subdivision borders on or contains an existing or proposed major thoroughfare, the planning commission may require marginal access streets, reverse lot frontage with an approved screen planting contained in a dedicated nonaccess reservation along the rear property line having a minimum width of 15 feet, or such other treatment as may be necessary for adequate protection of residential properties and to afford separation and reduction of traffic hazards. Where mature trees are present in the reservation strip they shall be preserved.
- (5) If a proposed subdivision borders on or contains a railroad, expressway or other limited access highway right-of-way, the planning commission may require the location of a street approximately parallel to and on each side of such right-of-way at a distance suitable for the development of an appropriate use of the intervening land such as for parks in residential districts. Such distances shall be determined with due consideration of the minimum distance required for approach grades to future grade separation.
- (6) Half streets shall be prohibited, except where absolutely essential to the reasonable development of the subdivision and in conformity with the other requirements of this article. Wherever a dedicated or platted and recorded half street exists adjacent to the tract to be subdivided, the other half shall be dedicated in the plat.
- (7) Streets shall be arranged in proper relation to topography so as to result in desirable and usable lots and safe streets with reasonable gradients.

~~(8) Except where justified by extreme conditions, alleys and private streets will not be permitted in areas of detached single or two family residences.~~

(c) *Right-of-way widths.* Street right-of-way widths shall conform to ~~the requirements of the road commission for the county or at least~~ the following requirements, ~~whichever is greater~~:

- (1) Major thoroughfares. In conformance with the traffic study and comprehensive transportation plan including the master right-of-way plan adopted by the planning commission.
- (2) Collector streets: 86 feet.
- (3) Industrial-service streets: 70 feet.
- (4) Local and marginal access streets (single-family or multiple-family residential where platted): 60-foot curbs and gutter.
- (5) Boulevard streets: 80 feet or more.

- (6) Turnaround (loop or U) streets: 120 feet.
- (7) Alleys: 20 feet.
- (8) Cul-de-sac streets; turnarounds.
 - a. Industrial: 70 feet terminating with a 70-foot radius.
 - b. Residential and others: 60 feet or 70 feet (see subsection (c)(4) of this section) terminating with a 60-foot radius.
- (9) Maximum length for cul-de-sac streets shall generally be 600 feet; this may be exceeded subject to the approval of the commission.
- (d) *Geometrics.* Standards for maximum and minimum street grades, vertical and horizontal street curves and sight distances shall be established by resolution of the council and shall not be less restrictive than the standards of the county road commissioners.
- (e) *Intersections.* Streets shall be laid out so as to intersect as nearly as possible to 90 degrees. Curved streets intersecting with major thoroughfares and collector thoroughfares shall do so with a tangent section of centerline 50 feet in length, measured from the right-of-way line of the major or collector thoroughfare.
- (f) *Layouts.* All streets and roads shall conform to the right-of-way width designated in the approved traffic study and comprehensive transportation plan for the city including the master right-of-way plan.

Section 8. Section 122-272 of Chapter 122 of the Code of Ordinances of the City of Rochester Hills shall be amended as follows:

Sec. 122-272. – Floodplains.

Any areas of land within the proposed subdivision which lie either wholly or in part within the floodplain of a river, stream, creek, or lake or any other areas which are subject to flooding or inundation by stormwater shall require specific compliance with the city’s wetland protection ordinance in article IV of chapter 126 of this Code; the land division act, Public Act No. 288 of 1967 (MCL 560.101 et seq., MSA 26.430(101) et seq.); and its review by the ~~county drain commission and the water resources commission of the department of natural resources~~Oakland County Drain Commissioner’s Office and the Michigan Department of Environment, Great Lakes and Energy.

Section 9. Section 122-302 of Chapter 122 of the Code of Ordinances of the City of Rochester Hills shall be amended as follows:

Sec. 122-302. – Compliance standards.

- (a) *Approvals.* Engineering plans and specifications for all improvements in a subdivision shall be approved by the city engineer and/or the department of public services prior to the installation of any subdivision or project improvements within the city.
- (b) *Compliance.* All subdivision or project improvements within the city installed in public streets, public alleys, rights-of-way, or public easements and/or under the ultimate jurisdiction of the county or city shall comply with all of the provisions and requirements of this article and all other related sections of this Code.

Section 10. Section 122-304 of Chapter 122 of the Code of Ordinances of the City of Rochester Hills shall be amended as follows:

Sec. 122-304. – Utility improvement standards.

Three sets of engineering plans shall be prepared by a professional engineer showing all utility improvements in a subdivision and shall be submitted to the city clerk. The plans shall show and conform to the design standards that follow:

- (1) *Streets.* All streets and utilities within street or road rights-of-way will be in compliance with current standards of the ~~county road commission~~city. Curb and gutter will be required whenever an adequate storm drainage outlet is available.

Section 11. Severability. This ordinance and each article, section, subsection, paragraph, subparagraph, part, provision, sentence, word and portion thereof are hereby declared to be severable, and if they or any of them are declared to be invalid or unenforceable for any reason by a court of competent jurisdiction, it is hereby provided that the remainder of this ordinance shall not be affected thereby.

Section 12. Repeal, Effective Date, Adoption.

(1) Repeal. All regulatory provisions contained in other City ordinances, which are inconsistent with the provisions of this ordinance, are hereby repealed.

(2) Effective Date. This ordinance shall become effective on _____, following its publication in the *Oakland Press* on _____, 2020.

(3) Adoption. This ordinance was adopted by the City Council of the City of Rochester Hills at a meeting thereof held on _____, 2020.

Bryan K. Barnett, Mayor
City of Rochester Hills

CERTIFICATE

I HEREBY CERTIFY THAT THE FOREGOING ORDINANCE WAS ADOPTED BY THE CITY COUNCIL OF THE CITY OF ROCHESTER HILLS AT A MEETING THEREOF ON _____, 2020.

Tina Barton, Clerk
City of Rochester Hills